



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,598	03/24/2004	Edward Gabriel	61166-0010-01	7245

9629 7590 08/10/2005

MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004

EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/809,598		GABRIEL, EDWARD	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tan Le		3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-27 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 24-37 and 35-40 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

*A*

## DETAILED ACTION

### *Election/Restrictions*

1. This is the first office action for Application Number 10/809,598, Method For Leveling an Object, filed on 3/24/04. This application contains 10 claims numbered 24-27 and 35-40. Claims 1-23 and 28-34 have been canceled by a preliminary amendment filed 5/24/05.

### *Election/Restriction*

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species of Figures 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 4C, 5A, 5B, 5C, 6A, 6B, 7A and 7B

Species of Figures 1A, 1B, 2A, 2B, 3C, 3D, 3E, 4A, 4B, 4C, 5A, 5B, 5C, 6A, 6B, 7A and 7B

Species of Figures 1B, 1C, 2A, 2B, 3A, 3B, 4A, 4B, 4C, 5A, 5B, 5D, 6A, 6B, 7A and 7B

Species of Figures 1B, 1C, 2A, 2B, 3C, 3D, 3E, 4A, 4B, 4C, 5A, 5B, 5D, 6A, 6B, 7A and 7B

Species of Figures 1B, 1D, 2A, 2B, 3C, 3D, 3E, 4A, 4B, 4C, 5A, 5B, 5E, 6A, 6B, 7A and 7B

Species of Figures 1B, 1D, 2A, 2B, 3A, 3B, 4A, 4B, 4C, 5E, 6A, 6B, 7A and 7B.

Species of Figure 8

Species of Figure 9

Species of Figure 10.

Species of Figure 11.

Note that the above figures are specified as best understood by examiner in making an action for election. Figures 2A, 3A, 3B, 3C, 4A, 4B, 5A, 6A and 7A as described in the specification representing various views of Fig. 1, but unspecified which embodiment of Fig. 1 that the above figures are represented such as the embodiment of Figures 1A, 1C and/or 1D. Therefore, prior to making an election, Applicant is required to clearly identify the above-mentioned figures. Applicant should note that the examiner reserves the option of requiring further restriction and/or election, in due course, pursuant to MPEP 821.03, MPEP 811, etc., based on Applicant's response to this office action.

3. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

4. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed ( 37 CFR 1.143).

#### COMMENTS INTENDED TO ADVANCE THE PROSECUTION:

(1) Applicants should review every figure in the drawings that described in the specification. Note that Figures 3D and 3E shown in the drawings fail to describe under the section "Brief Description of the Drawings".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

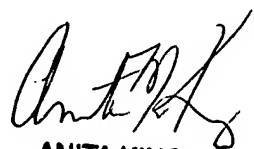
Art Unit: 3632

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
August 5, 2005

  
**ANITA KING**  
**PRIMARY EXAMINER**